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Report of the Working Group on the Universal Periodic Review*

Timor-Leste

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

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1703884

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The Democratic Republic of Timor-Leste's responses to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review on 3 November 2016

1. The Democratic Republic of Timor-Leste reaffirms its commitment to the Universal Periodic Review, which has proved to be a great mechanism in promoting the human rights.

2. The Democratic Republic of Timor-Leste welcomes the 154 recommendations made by the 59 delegations that took part in the Timor-Leste session review on 3 November 2016.

3. Out of the **154 recommendations** made during the review, Timor-Leste **accepted 146**, of which **14 had already been implemented and 118 are being implemented**, and took **note of 8**.

4. All the recommendations had been carefully examined by the Government of Timor-Leste in line with the current legal status, the main government policies and programs, the capacity of the relevant institutions to implement it, and, also, the socio-cultural relevant factors and perspectives of the Timorese society.

5. Timor-Leste submits the following information by the categories of the explanation for its decision regarding the *accepted* and *noted* recommendations as follows:

Accepted the recommendations 89.2, 89.3, 89.4, 89.9, 89.29, 89.30, 89.33, 89.35, 89.39, 89.45, 89.46, 89.47, 89.48, 89.49, 89.50, 89.51, 89.52, 89.54, 89.57, 89.59, 89.60, 89.61, 89.62, 89.69, 89.71, 89.72, 89.74, 89.75, 89.79, 89.81, 89.83, 89.85, 89.87, 89.88, 89.91, 89.94, 89.97, 89.98, 89.99, 89.100, 89.101, 89.102, 89.105, 89.108, 89.109, 89.115, 89.116, 89.117, 89.122, 89.123, 89.124, 89.126, 89.127, 89.130, 89.131, 89.132, 89.133, 89.135, 89.136, 89.137, 89.138, 89.139, 89.140, 89.141, 89.142, 89.143, 89.144, 89.145, 89.146, 89.147, 89.148, 89.149, 89.150, 89.151, 89.152 and 89.154.

Accepted the recommendations 89.8, 89.10, 89.11, 89.12, 89.13, 89.14, 89.15, 89.16, 89.17, 89.18, 89.19, 89.20, 89.21 and 89.22

Timor-Leste attaches great importance to the rights of the persons with disabilities and reaffirms its commitment to finalize soon the ratification of the Convention on the Rights of the Persons with Disabilities and to continue to implement the obligations under the Convention, especially through the National Policy for the Inclusion and Promotion of the Rights of Persons with Disabilities and the National Mental Health Strategy.

Accepted the recommendations 89.34, 89.86, 89.89, 89.90, 89.92, 89.93 and 89.96

Timor-Leste is strongly committed to combat all forms of gender-based violence. Discrimination based on sex is prohibited by law. Timor-Leste has taken and will continuously take a number of measures to prevent, combat and decrease discrimination and violence based on sex, especially against women.

Accepted the recommendations 89.40, 89.41, 89.78, 89.80, 89.110, 89.111, 89.112 and 89.113

All kind of violence incidents, such as of excessive use of force, arbitrary detention, abuse of power and torture, are prohibited in Timor-Leste and punished accordingly. The Timorese law ensures that all these incidents perpetrated by public officials are subject to impartial investigation and prosecution. On the other hand, all the procedures to be used during security operations are regulated by law. Also, all the security forces receive frequently training on human rights.

Accepted the recommendations 89.42 and 89.43

Timor-Leste recognizes the importance of the birth registration and will continue working to ensure the birth registration of all children born in Timor-Leste. The Government is now drafting a new Civil Registry Law and the decentralization of the civil registry services is already being implemented.

Accepted the recommendations 89.44, 89.70, 89.73, 89.128 and 89.129

Timor-Leste is committed to promote the rights of women, establish gender equality and combat gender-based violence through a comprehensive and multi-sectoral approach. Even though the promotion and protection of women's rights represent a big challenge for the Timorese society, it also remains a priority and the Government is doing a great effort to highlight the contribution of woman to national and political development, particularly investing in the areas of education, economics and political participation.

Accepted the recommendations 89.63, 89.64, 89.65, 89.66, 89.67 and 89.68

Timor-Leste is unequivocally committed to human rights and openly collaborates with the United Nations System. Timor-Leste welcomes, as well, all the representatives of the Special Procedures of the Human Rights Council. Timor-Leste is working to improve communication channels and to assure that all requests are provided with a timely response.

Accepted the recommendations 89.76 and 89.77

Timor-Leste attaches great importance to promoting equality and combat discrimination. The Timorese law explicitly prohibits discrimination on the grounds of sexual orientation and gender identity. All the citizens are equal before the law and have the same rights, and public authorities must not discriminate citizens in any ground, included on the basis of sexual orientation and gender identity.

Accepted the recommendations 89.96, 89.104, 89.106 and 89.107

Access to justice is a core fundamental right in the Timorese Constitution. However, it is a right that faces a number of challenges, including a lack of legal aid mechanisms, a lack of rights awareness and poor knowledge about the tools that are available to access to justice. Many actions and programs had already been taken to increase the access to justice, for example, the mobile courts or the recent created Access to Justice Clinics. Timor-Leste will continue working to ensure this right to all citizens, including groups such as children, women and those who lack sufficient resources, especially in the remote areas.

Accepted the recommendations 89.118 and 89.119

Timor-Leste is working on a comprehensive approach in relation to children in conflict with the law, which includes legislative measures that provide alternative justice of deprivation of freedom, based in educational principles.

Accepted the recommendation 89.1

Timor-Leste had already ratified the most important international human rights instruments and will continue the ratification process to which it has not yet acceded, which must occur gradually so that the necessary conditions for implementation are in place prior to ratification.

Accepted the recommendations 89.6 and 89.7

Timor-Leste has already ratified the Convention of against Torture and Other Cruel, Inhuman or Degrading Treatment and already submitted its initial report to the committee.

Accepted the recommendations 89.10, 89.27, 89.31 and 89.32

Timor-Leste states that its legislation, including the Penal Code, is consistent with the main provisions of the Rome Statue of the International Criminal Court.

Accepted the recommendations 89.36 and 89.103

Timor-Leste supports these recommendations, which considers that they have already been implemented. Timor-Leste already approved an anti-trafficking law, to combat and prevent all forms of human trafficking, which ensures that everyone, including those under 18, is protected in accordance with the Palermo Protocol to Prevent, Suppress and Punish Human Trafficking.

Accepted the recommendation 89.153

Timor-Leste has already passed legislative amendments to ensure the right to vote for the Timorese citizens residing abroad in the next 2017 elections.

Accepted the recommendations 89.37 and 89.125

The Timorese Media Law is consistent with international standards and ensures the protection of the freedom of expression and the right of the information of the population.

Accepted the recommendation 89.38

Timor-Leste will study this recommendation in line with the Recommendation n.° 31 made by the CEDAW Committee, about the possibility of recognizing certain exceptions to the illegal abortion, such as when the pregnancy results from rape or incest or when is a vital impairment.

Accepted the recommendations 89.53, 89.56 and 89.58

Timor-Leste supports these recommendations, which considers that they have been already implemented. Timor-Leste recognizes the importance to protect the children. Recently, a National Action Plan on Children has been approved and is now being implemented.

Accepted the recommendations 89.55, 89.82, 89.84 and 89.95

Timor-Leste supports these recommendations, which considers that they have already been implemented. Timor-Leste has already approved a National Action Plan on Gender-based Violence, which is on the second phase of its implementation.

Accepted the recommendation 89.114

Timor-Leste attaches great importance to the cooperation in the justice sector with Portuguese-speaking countries, especially with Portugal, which support has been tremendous since the foundation of the judicial system. At this moment, actions and programmes are being implemented on behalf of the cooperation agreement settled between Portugal and Timor-Leste.

Accepted the recommendation 89.5

Timor-Leste accepts in principle all the recommendations made by the CEDAW Committee, except the general recommendation number 38, which determines to rise the minimum age for marriage at 18 for boys and girls. Timor-Leste finds that this is a recommendation that it cannot commit to implementing at present, because it is not in line with the perspectives of the Timorese society.

Noted the recommendations 89.23, 89.24, 89.25, 89.26 and 89.28

These are the recommendations that Timor-Leste cannot commit to implement at the present, despite its agreement with the underlying principles of the mentioned international instruments.

Noted the recommendations 89.120, 89.121 and 89.134

These are recommendations that Timor-Leste cannot commit to implement at the present, because it is not in line with the perspectives of the Timorese society.

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Report of the Working Group on the Universal Periodic Review*

Republic of Moldova

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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1703325

Please recycle

1. The Republic of Moldova (hereinafter "RM") welcomes the interactive dialogue and the 209 recommendations received from 75 delegations during the second cycle Universal Periodic Review that took place on 4 November 2016.

2. During the session of the UPR Working Group, the Republic of Moldova accepted 175 of the 209 recommendations, noting three[1] and deferring 31[2] for subsequent examination in the capital, before the 34th session of the Human Rights Council.

3. The table below presents the position taken by the RM regarding the 31 recommendation, out of which 15 – enjoy full support, 12 – are noted and 4 recommendations are partially supported/noted, in which case, it concretely specifies which part of the recommendation is being supported and which is noted.

Table 1. List of recommendations that were deferred during the 26th session of the UPR WG

No.	*Recommendation/country*	*Status*
122.1	Ratify the Optional Protocol to the ICESCR and accept its investigation procedure and its communications procedure between States (Uruguay);	Supported
122.2	Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Portugal);	Supported
122.3	Continue the process towards the ratification of the ICRMW and ILO Convention 189 (Philippines);	Noted
122.4	Ratify the ICRMW (Uruguay, Afghanistan);	Noted
122.5	Ratify, as soon as possible, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Guatemala);	Noted
122.6	Resume the ratification process of the ICRMW (Turkey);	Noted
122.7	Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (N), the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (S) and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (El Salvador) (S);	ICRMW – N OP - ICESCR – S OP-CRPD – S
122.8	Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Indonesia);	Noted
122.9	Consider ratifying ICRMW (N), Protocol 12 to the European Convention on Human Rights (S) and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Albania) (S);	ICRMW – N Protocol No.12 – S Istanbul Convention – S
122.10	Ratify ICPPED as no country is free from cases of enforced disappearance (Slovakia);	Supported
122.11	Ratify the ICPPED (Uruguay, Montenegro);	Supported

122.12	Ratify as soon as possible the International Convention for the Protection of All Persons against Enforced Disappearance, a major instrument in the fight against impunity, and recognize the competence of the Committee on Enforced Disappearances (France);	Supported
122.13	Ratify and accede to the ICPPED (S) and the ICRMW (N) (Sierra Leone);	ICPPED – S ICRMW – N
122.14	Ratify ICPPED as well as the remaining human rights treaties to which it is still not Party (Argentina);	Supported
122.15	Finalise the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (Iraq);	Supported
122.16	Ratify the Kampala Amendments to the Rome Statute of the International Criminal Court (Estonia);	Supported
122.17	Amend the Law on Equality in order to widen the list of possible discrimination criteria (Slovakia);	Noted
122.18	Amend Article 1 of the Law on Ensuring Equality by including criteria such a social origin, marital situation, health status, sexual orientation, gender identity, and gender expression in the main list of criteria for categories to be protected from discrimination (Sweden);	Noted
122.19	Include in the Law on Equality four protected criteria – namely social origin, material situation, sexual orientation and health status (Croatia);	Noted
122.20	Review and amend relevant legislation, such as the Criminal Code and the Code of Administrative Offences, to enhance the protection and promotion of the rights of LGBTI persons and of individuals belonging to vulnerable, minority populations, including religious communities and ethnic minorities, as well as amend article 1 of the Law on Ensuring Equality to include sexual orientation and gender identity (Canada);	Supported
122.21	Adopt the draft law on amending and completing the Criminal Code and the Code of Administrative Offences with regard to bias-motivated crimes and incidents to also include sexual orientation, gender identity and gender expression as ground for hate crimes (Sweden);	Supported
122.22	Adopt a legislative framework that ensures protection against all offences motivated by hatred and prejudice (Côte d'Ivoire);	Supported
122.23	Complete the process of establishing a coordinating body under the auspices of Prime Minister's Office to monitor and report progress on human rights (Kyrgyzstan);	Supported

122.24	Enhance the implementation of the Law on Ensuring Equality by strengthening the mandate of the Equality Council, including by allowing it to issue binding recommendations and to sanction discrimination, as well as by increasing awareness-raising through education (Finland);	Noted
122.25	Fully implement recommendations made by the Council for Preventing and Eliminating Discrimination to better ensure the protection against discrimination and equality of all persons (Republic of Korea);	Noted
122.26	Adopt measures to ensure protection from torture and forced hospitalization and medication in psychiatric institutions (Portugal);	Noted
122.27	Implement legislation to abolish and effectively combat early and child marriage (Sierra Leone);	Noted
122.28	Take concrete measures to address the issue of self-censorship among Moldovan journalists (N), limit media ownership concentration and ensure media pluralism (Norway) (S);	N/S
122.29	Step up efforts to improve free medical facilities, reduce high infant mortality rates and high teenage pregnancy rates (Greece);	Supported
122.30	End discrimination against people with intellectual and psychological disabilities and implement tools to encourage their employment (Croatia);	Supported
122.31	Effectively guarantee the rights of migrants (China).	Supported

4. Further below the Republic of Moldova clarifies its position regarding the recommendations that it has noted:

122.3–122.9: Provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families are considered, for the time being, ineffective for Moldova for several reasons: its provisions are similar to those contained in other international treaties already ratified by the RM such as: Convention No. 181 on Private Employment Agencies; Convention No. 97 on Migration for Employment and European Convention on the Legal Status of Migrant Workers. The RM has signed and ratified 44 conventions regulating labor issues, out of which 3 are dedicated to labor migration. The RM is a State party to the revised European Social Charter, which ensures the implementation of social, health and employment rights of foreigners and members of their families arrived in the RM to work. International treaties, to which Moldova is a State party, have been ratified by most countries of destination of the Moldovan migrant workers, such treaties representing an effective tool to ensure compliance with social and labor rights. The national legal framework related to these matters has been already adjusted to the ratified international treaties and there are no obstacles for their implementation. Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families will not guarantee the legal status of our citizens abroad, as States that have ratified the Convention are not countries of destination for Moldovan citizens going to work abroad.

122.17; 122.18; 122.19: The discrimination criteria provided for by Art. 1, para. (1) of the Law No.121 of 25 May 2012 on Ensuring Equality has an indicative and not a limiting

character. Thus, *"any other similar criteria"* as specified by the Law No. 121, leaves the space for any other criteria that is not directly regulated by law, but is protected under the human rights guarantees in the same manner. Unlimited are treated as well the areas of applicability of the law (ex: "in the spheres of political, economic, social, culturai and *other spheres of life*"). Accordingly, it is not considered relevant widening the list of possible discrimination criteria regulated by the Law No. 121 on Ensuring Equality.

122.24; **122.25**: According to art. 423/5 of the Code on Administrative Offences of the Republic of Moldova (hereinafter – the RM), the Council **on the Prevention and Elimination of Discrimination and Ensuring Equality** has a mandate of a supervising agent over all the components of administrative offenses involving discrimination. The Council thus participates in the punitive policy of the State by ascertaining the role of an agent. However, due to the need for the contravention being examined by an entity disinterested in the outcome of the process, ensuring by this the right to a fair trial, it is considered that it has to be examined by a court of law. The Council represents the prosecution and has an interest in the punishment of the perpetrator. Furthermore, a sanction directly applied by the Council does not deprive a person of his/her right to appeal to a court of law in order to contest it; this will be the court of law who will appreciate the proportionality of the established penalty for committing the offense.

122.26: The Republic of Moldova is committed to ensure the rights and freedoms of persons suffering from mental disorders in the psychiatric inpatient hospitalization and/or following the treatment with his/her free consent (or legal representative if applicable). The excepted cases are situations of psychiatric emergency as mental heterogeneous disorders which require immediate intervention and the highest quality assistance in order to reduce major risks to life, serious injury or threat to the physical integrity of the respective person or others. According to the national legal framework, these situations have an exclusive character and serve as reasons for the forced hospitalization of the person according to art. 28 of the Law No. 1402 of 16 December 1997 on mental health. In these cases, according to provisions of Articles 31 and 32 of the Law No. 1402 and Articles 309-318 of the Civil Procedure Code of the RM, a judicial examination by a court of law of the decision of approval/refusal of the forced hospitalization/forced treatment in inpatient psychiatry is mandatory. The examination is ensured in a public trial, respecting the right to defense of the concerned person fully guaranteeing, by these means, the rights and freedoms of persons whose hospitalization and forced treatment is requested.

122.27: According to the Family Code (Law no. 1316 of 26.10.2000) and Law No. 100 of 26.04.2001 on civil status, the matrimonial age in the Republic of Moldova is 18 years. This age can be lowered, in exceptional cases, but by no more than two years. Reduction of matrimonial age is, by law, accepted by the local governmental authority in whose jurisdiction individuals wishing to marry are registered, based on their application and the parents' or guardians' agreement. Early and child marriage is not considered a matter of concern for the Moldovan Government.

5. The table below provides statistical data on the marriages registered during the past three years in cases of persons between the age of 16 and 18.

Table 2. Marriages among minors (age between 16–18 years) in the Republic of Moldova

Year	*Number of marriages/minors minimum age between 16 – 18 years*	*Total number of marriages/year*
2016	201	22,090
2015	191	23,717
2014	230	24,254

122.28: The data of the Coordinating Council of the Audiovisual (CCA) shows no registered/received complaints/cases on self-censorship of any journalists in Moldova. Each person, journalist, blogger and civic activist in the country is granted the full freedom to write what/when he wants by using, in this respect, TV and Radio, print media and social networks. For example, recent reports of the presidential election monitoring developed by CCA certified that some broadcasters under Moldovan jurisdiction reflected in a fair, balanced and impartial manner the electoral candidates, while others did not respect the socio-political pluralism and opinion, reflecting in a biased manner (favoring/disadvantaged) the electoral candidates.

Notes

[1] Listed under paragraph 123 of the Report of the Working Group on the Universal Periodic Review of the Republic of Moldova https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/436/71/PDF/G1643671.pdf?OpenElement

[2] Listed under paragraph 122 of the Report of the Working Group on the Universal Periodic Review of the Republic of Moldova https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/436/71/PDF/G1643671.pdf?OpenElement

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South Sudan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Please recycle

1. The Government of National Unity (TGoNU) of the Republic of South Sudan expresses its appreciation to the Working Group members of the Troika and the Secretariat of the Human Rights Council for the efforts made in consideration and adoption of South Sudan first report under the Universal Periodic Review (UPR).

2. During the interactive dialogue in November, 2016, South Sudan received 233 recommendations in total out of which 77 recommendations enjoy TGoNU; 43 recommendations were considered by TGoNU to be under implementation or being implemented; 97 recommendations were taken to the capital for further consultations and 16 recommendations got noted.

3. Therefore, the present document is to address those recommendations which were taken for examination or noted during the interactive dialogue.

4. Therefore, TGoNU has classified its responses to the recommendations into four (4) parts but will be making explanations throughout the document to those recommendations noted or not accepted.

(a) **The recommendations formulated during the interactive dialogue listed below have been examined by TGoNU and enjoy its support but needs technical assistance and resources to fully implement them. The recommendations are (128.1 to 128.29, 128.31 to 128.32, 128.36 to 128.39, 128.42, 128.46 to128.52, 128.55 to128.71, 128.73, 128.75 to 128.86, 128.88, 128.90 to 128.91 and 128.93 to128.97).**

(b) **The recommendations formulated during the interactive dialogue listed below were "Noted" but are accepted by TGoNU after consultations. The recommendations are (129.5 and 129.6).**

5. TGoNU accepts the recommendations listed in (a) and (b) above without reservations but is requesting the members of the Human Rights Council in particular and the international community to provide TGoNU with the necessary technical and resources support so that these recommendations are fully implemented within the cycle period before the next review.

(c) **The recommendations formulated during the interactive dialogue listed below have been examined by TGoNU and did not enjoy its support and therefore are noted because the recommendations are in conflict with the national laws, government structures, policies or customs. The recommendations are (128.30, 128.33, 128.34, 128.35, 128.40, 128.41, 128.43, 128.44, 128.45, 128.53, 128.54, 128.72, 128.74, 128.87, 128.89 and 128.92).**

6. Based on above listing and the brief introduction, TGoNU will like to make the following explanations:

128.30: The recommendation failed to specify parts of the National Security Service Act which is considered to be in violation of any right and therefore TGoNU find it difficult to accept the recommendation.

128.33: The recommendation is in conflict with South Sudan customs and beliefs as such cannot be supported.

128.34: The Ministry of Gender, Child and Social Welfare is responsible for issues relating to the welfare of children in the country therefore, creation of an independent children commission will conflict with the Ministry mission which is already in progress.

128.35, 128.40, 128.41, 128.72, 128.74: South Sudan has no plan or policy to attack, rape, arbitrarily detain or extra-judicial execute its citizens. Any attack, rape or unlawful detention or killings is an offence under South Sudan penal law. TGoNU agrees with

objective of these recommendations but that does not imply acceptance by the Government of South Sudan responsibility for the attacks against civilians. Currently before the Transitional National Legislative Assembly (TNLA) a chapter on international law crimes has been added to the Penal Code to deal with cases of crimes against humanity, war crimes and genocide.

128.43, 128.45, 128.53, 128.54: South Sudan has commitment to protect children and that is why South Sudan acceded without reservation to the International Convention on the Rights of the Child, 1989 and the Optional Protocol particularly the Optional Protocol on Involvement of Children in Armed Conflict. The SPLA Act, 2008 prohibits recruitment and use of child soldiers. Also the South Sudan Child Act, 2008 prohibits recruitment of any person into the army under the age of 18 years. In line with the national laws, South Sudan signed a Re-Committeemen Action Plan which resulted in identification, demobilisation and reunification of children associated with various militia groups which accepted peace.

128.44: Protection of civilians currently living in the United Nations Mission in South Sudan (UNMISS) Protection of Civilian Sites (PoCs) is the responsibility of United Nations and therefore any security breaches taking place within the PoCs cannot be attributed to South Sudan security personnel because our security personnel cannot have access to the PoCs.

128.87, 128.89, 128.92: South Sudan has many registered civil society organisations, media outlets and there are laws in place governing their work. Any case of detention or arrest of any member of the civil society or journalist is always due to violation of the media laws or Non-Governmental Organisation Act. Recommendation for amendment of the National Security Service Act and Non-Governmental Organisations Act has not provided a clear path as to which parts or sections of the two laws are considered to violate or intrude upon rights. Therefore as there is no clear mentioning of the parts of the two laws to be amended, South Sudan considers these two laws not intruding upon the rights of its citizens. Not only that the TGoNU do not accept the recommendation for amendment of the National Security Service Act, 2014 because the law provides for an oversight mechanisms and currently there is a prosecutor appointed by the Ministry of Justice and Constitutional Affairs to ensure compliance of the National Security Service with the Constitution and the law particularly in regards to the rights of the detainees.

(d) Recommendations which did not enjoy TGoNU support and therefore remain "Noted". The recommendations are (129.1, 129.2, 129.3, 129.4, 129.7, 129.8, 129.9, 129.10, 129.11, 129.12, 129.13, 129.14, 129.15 and 129.16).

7. TGoNU did not accept the under mentioned recommendations because:

129.1, 129.2, 129.3, 129.4: South Sudan did not accept these recommendations as the recommendations never provided specifically which are the main regional and international or other human rights instruments which South Sudan have not acceded.

129.7, 129.8, 129.9, 129.10, 129.14, 129.15, 129.16: These recommendations did not enjoy TGoNU support because they are in conflict with national laws and policies. South Sudan does not impose death penalty except under rare situations after exhaustion of all steps laid down by the Constitution and not on the persons under 18, over 70 years. Therefore, abolition of death penalty is not a priority. Also South Sudan has Supreme Court which protects human rights stipulated in the Transitional Constitution, 2011 and International Conventions to which South Sudan is party. Finally death penalty is still part of the domestic law punishment policy in accordance with South Sudan current penal laws.

129.11, 129.12, 129.13: TGoNU do not accept the word ratify without limiting it because South Sudan as a country has the right to accede or not accede to the Rome Statute of the International Criminal Court base on the national interest and priority. Therefore TGoNU

does not see the ratification of Rome Statute of the International Criminal Court as its priority, especially that the crimes triable by ICC are offences even punishable by death under South Sudan penal laws.

8. It is worth mentioning that all recommendations which received TGoNU approval during the interactive dialogue and those accepted after consultations will enjoy TGoNU commitment in terms of implementation. However, the recommendations not accepted or supported because of general and not necessarily stating the situation on the ground in South Sudan, TGoNU will be making further oral or written clarifications during the 34th Session of the Human Rights.

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Haiti

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Please recycle

1. The Republic of Haiti thanks the Working Group on the Universal Periodic Review for adopting, on 9 November 2016, at the end of its twenty-sixth session, the report submitted by Haiti for the second cycle of the universal periodic review. It is also grateful to the Working Group for enabling 193 countries to make recommendations with a view to improving the protection and promotion of human rights in Haiti.

2. Haiti acknowledges the importance of the 213 recommendations that were made by Member States during the dialogue. It declared that it supported 175 of those recommendations, noted 33 of them and stated that it would provide a response to the remaining 5 in due course.

3. In view of the need to involve civil society in this process, consultations with civil society were held on 20 December 2016 to gather opinions on the recommendations.

4. In the light of those consultations with civil society and discussions among members of the technical secretariat of the Interministerial Human Rights Committee, Haiti has reclassified its responses as follows: 188 recommendations are accepted and the remaining 25 are noted.

5. Haiti would like to explain its decision to note certain recommendations. In some cases, the recommendation has already been implemented; in other cases, Haiti cannot presently commit to implementing the recommendation for various reasons. Haiti is providing the following information to clarify its decision.

Recommendation 117.1 (Congo): Accelerate the ratification of all international human rights instruments

6. The wording of this recommendation is too general, for Haiti cannot be a party to all international human rights instruments. The ratification of some of those instruments requires means of support that are unavailable to the State owing to the country's socioeconomic and cultural situation.

Recommendations 117.2 (Australia), 117.3 (Montenegro), 117.4 (Rwanda), 117.5 (Namibia): Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (recommendation accepted)

7. Well before the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights in 1989, the death penalty had already been abolished in Haiti for all offences, pursuant to article 20 of the Constitution. Moreover, international instruments rank below the Constitution in the legal hierarchy. Haiti has decided to accept this recommendation, since it reflects the concerns of the Haitian Government.

8. The ratification of this Protocol will enable the State to protect Haitian nationals residing in countries where the death penalty has not been abolished.

Recommendations 117.7 (United Kingdom of Great Britain and Northern Ireland), 117.14 (Czechia), 117.15 (Uruguay), 117.16 (Cyprus), 117.17 (Germany), 117.18 (Guatemala), 117.19 (Timor-Leste): When elected, the new President should seek early ratification of the Rome Statute of the International Criminal Court

9. Haiti, in view of its past, recognizes the importance of the Rome Statute as an instrument for combating crime. That is why it signed the Rome Statute on 26 February 1999. Haiti acknowledges that the recommendations made by these countries, such as Timor-Leste, are well-founded.

10. However, Haiti already has a body of law that serves to combat the acts that are defined as crimes against humanity in the Rome Statute. The new Criminal Code, which is being drafted and will shortly be submitted to the parliament, covers genocide, torture and other such crimes. Trials have already taken place in Haiti for crimes against humanity, which are classed as ordinary crimes in the Criminal Code. One example is the trial of the late Jean-Claude Duvalier, the former President of Haiti. Haiti has not deemed it necessary

to ratify the Rome Statute because the crimes concerned by that instrument are covered by its domestic legislation.

Recommendation 117.20 (Armenia): Ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity

11. War crimes and crimes against humanity are covered by the Rome Statute. Haiti notes the recommendation of Armenia regarding the non-applicability of statutory limitations to these crimes. However, although Haiti has not yet ratified the Rome Statute, the crimes to which the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity applies are already covered by Haitian criminal law. Moreover, residents of Haiti are subject to the same penalties, which are provided for by criminal law. Haiti has therefore deemed it unnecessary to ratify the Convention in question.

Recommendations 117.21 (Mongolia) (Panama) (Rwanda), 117.22 (Paraguay): Extend a standing invitation to the human rights special procedures

12. Haiti has never objected to receiving visits from human rights special procedures mandate holders. It has always welcomed the Independent Expert on the situation of human rights in Haiti. There is no need for a standing invitation.

Recommendations 117.24 (Croatia), 117.25 (Guatemala): Design and implement a series of measures to combat discriminatory stereotypes, including stereotypes based on gender

13. Generally speaking, there are no discriminatory stereotypes in Haiti, because the country's population is black. Moreover, there are no ethnic groups in Haiti. The State guarantees religious freedom and recognizes cultural diversity.

Recommendation 117.26 (Colombia): Take measures to combat norms, practices and stereotypes that cause discrimination and violence based on sexual orientation and gender identity

14. The preamble to the Constitution guarantees the inalienable and imprescriptible rights to life, liberty and the pursuit of happiness in accordance with the Act of Independence of 1804 and the Universal Declaration of Human Rights of 1948. Haitian law protects all persons from discrimination based on sexual orientation and gender identity in the exercise of their rights and enables all victims of practices and stereotypes that cause discrimination and violence of that kind to bring proceedings before the competent court to assert their rights.

Recommendation 117.28 (Canada): Provide, as soon as possible, documents to persons of Haitian origin living in the Dominican Republic to regularize their status and thus avoid deportations, in coordination with the International Organization for Migration

15. This recommendation does not fall solely within the competence of Haiti, for it concerns persons of Haitian descent who were born in the Dominican Republic and whose families have lived there for several generations and who should have been granted nationality on the basis of *jus soli* pursuant to the Dominican Constitution. The Haitian State is nevertheless still striving to provide Haitians residing on Dominican territory with identification documents.

Recommendations 115.134, 117.29, 117.30 (Botswana, Sierra Leone, Republic of Korea): Raise the minimum age of marriage to 18 for both boys and girls

16. Under articles 16.2 and 17 of the Constitution, the age of majority is 18 years. Article 17 provides that Haitians aged 18 and over may exercise their civil and political rights, subject to the other conditions established in the Constitution and by law, without distinction on grounds of gender or civil status. Moreover, well before the adoption of the 1987 Constitution, the age of majority had already been established as 18 years by article

16 of the Act of 8 October 1982. At that age, Haitians have the capacity to perform all civil acts.

17. The Act also prohibits civil registrars from marrying persons under the age of 18 without the consent of their parents. Any registrar who violates this law is liable to a penalty, ranging from a fine to a prison sentence.

Recommendation 117.31 (Germany): End all enforced evictions from displacement camps and establish an official moratorium on mass eviction until all legal and procedural safeguards compliant with international human rights standards are in place

18. The Government does not encourage or practice mass eviction. As a preventive measure, administrative memorandums have been issued to government commissioners to prevent the implementation of judicial decisions on forced evictions.

Recommendation 117.33 (Switzerland): Implement policies to guarantee the rights of displaced persons, particularly following natural disasters, as well as of those persons expelled from a third country who risk statelessness

19. The Government has always taken measures to guarantee the rights of displaced persons following natural disasters. However, for the moment it cannot guarantee the rights of persons expelled from a third country owing to the socioeconomic challenges and overpopulation currently faced by Haiti.

The Haitian delegation had deferred its response to 5 out of the 213 recommendations so that it could examine them before making a decision. They were discussed during the workshop on 20 December 2016, which brought together civil society and members of the technical secretariat of the Interministerial Human Rights Committee. It was decided that recommendations 116.1, 116.2 and 116.5 (Uruguay) should be accepted and recommendations 116.3 and 116.4 should be noted.

Recommendations 116.1 and 116.2 on the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (Uruguay and Japan)

20. After consultation with civil society, these recommendations have been accepted.

Recommendation 116.3 (Czechia): Step up efforts to systematically address exploitation of and violence against children, including by introducing and effectively implementing legislation criminalizing the practice of placing children from poor families in domestic service

21. Haiti has a culture of solidarity. To help alleviate the economic problems that are so widespread, Haitian families take in disadvantaged children, with or without family ties, to improve their daily lives. The State is aware of the situation and provides assistance to poor families through social initiatives, for it is in the children's best interests to be raised by their biological family.

22. The Ministry of Social Affairs and Labour has set up an emergency call centre, through the Social Welfare and Research Institute, where cases of child abuse, child neglect and child trafficking can be reported by calling the free hotlines 133 and 511.

23. However, the State has noted some cases of ill-treatment where no crime, as such, has been committed. Criminalizing the practice of placing children in domestic service could mean that more children end up on the streets, if there is nowhere else for them to go. Many children flourish and are able to help their biological families, thanks to the kindness of the families who take them in.

Recommendation 116.4 (Congo): Speed up the procedure to adopt the law against the high rate of pregnancy among adolescent girls

24. Legislation was introduced in 2014 on paternity, maternity and descent; it deals with parental responsibility and non-discrimination against children. This legislation concerns

both women and adolescent girls. The high rate of pregnancy among adolescent girls cannot be reduced simply by adopting a law. The issue must be addressed through awareness campaigns aimed at both parents and adolescents. It would therefore make more sense to review the legislation on paternity, maternity and descent with a view to making it stronger and better suited to the current situation.

Recommendation 116.5 (Uruguay): Update the memorandum of understanding with the Dominican Republic on repatriation mechanisms in accordance with international standards and norms (recommendation accepted)

25. This recommendation is in line with the concerns of the Haitian Government.

26. Haiti called for this memorandum of understanding to be revised several years ago, but the Dominican Republic never responded to the request.

27. On 30 May 2015, the then Chancellor of Haiti submitted a draft memorandum of understanding on the repatriation mechanism to the Dominican authorities. In that draft, the Chancellor had recognized the right of the Dominican Republic to enforce its immigration laws and the responsibility of Haiti to receive its nationals, subject to the provisions of the memorandums of understanding and international law.

Conclusion

28. After consultation with civil society during the workshop on 20 December 2016, the Interministerial Human Rights Committee decided to reclassify the recommendations as follows:

(a) Accepted recommendations

- Three of the deferred recommendations have been accepted: 116.1, 116.2 and 116.5. These recommendations, made by Uruguay and Japan, concern the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (Uruguay and Japan) and the updating of the memorandum of understanding with the Dominican Republic on repatriation mechanisms in accordance with international standards and norms (Uruguay).
- Two of the deferred recommendations have been noted: 116.3 and 116.4.

(b) Noted recommendations

- After consideration, recommendations 117.2, 117.3, 117.4, 117.5, 117.6, 117.8, 117.9, 117.10, 117.11 and 117.12 have been accepted. Recommendation 117.32 has also been accepted.
- Recommendation 115.134, which was initially accepted, has been noted.
- This means that 11 out of 33 noted recommendations have been accepted, giving a total of 25 noted recommendations and 188 accepted recommendations.
- The responses to the recommendations have been reclassified in the light of the civil society consultations and discussions among members of the technical secretariat of the Interministerial Human Rights Committee.
- Overall, 14 noted recommendations have been accepted, bringing the total number of accepted recommendations to 188.